



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/846,157	04/30/2001	Gary Goldman	81862.P218	6017

7590 05/31/2005

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
Seventh Floor
12400 Wilshire Boulevard
Los Angeles, CA 90025-1026

EXAMINER

LY, ANH VU H

ART UNIT	PAPER NUMBER
----------	--------------

2667

DATE MAILED: 05/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

8m

Office Action Summary	Application No. 09/846,157	Applicant(s) GOLDMAN ET AL.	
	Examiner Anh-Vu H. Ly	Art Unit 2667	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 February 2005.
 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) ☐ Claim(s) _____ is/are allowed.
 6) ☒ Claim(s) 1-24 is/are rejected.
 7) ☐ Claim(s) _____ is/are objected to.
 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
 10) ☒ The drawing(s) filed on February 03, 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
 * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. This communication is in response to applicant's amendment filed February 03, 2005.

Claims 1-24 are pending.

Claim Objections

2. Claims 1, 4, 7, 10, 11, 13, 16, 17, 19, 22, and 23 are objected to because of the following informalities:

With respect to claim 1, in lines 8-11, "such that if ... the class of service" is unclear. An "if" statement should be accompanied with a "then" statement, however, there is no "then" statement as recited in the claim. Further, in line 17, the recited limitation "determining that the number of marked cells does not" should be underlined because it is a newly added limitation.

With respect to claims 4, 10, 16, and 22, in line 2, "the group" lacks antecedent basis.

With respect to claims 7, 13, and 19, in lines 6-8, "such that if ... the class of service" is unclear. An "if" statement should be accompanied with a "then" statement, however, there is no "then" statement as recited in the claim.

With respect to claims 11, 17, and 23, in line 2, "the cell" lacks antecedent basis.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Art Unit: 2667

3. Claims 1-6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

With respect to claim 1, the limitation as recited in line 17, "determining that the number of marked cells does not" is unclear. It is unclear of what being claimed.

Claims 2-6 are rejected as they depend upon rejected independent claim 1.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-2, 4, 6-8, 10-11, 13-14, 16-20, and 22-23 are rejected under 35 U.S.C. 102(e) as being anticipated by Chapman et al (US Patent No. 6,304,552 B1). Hereinafter, referred to as Chapman.

With respect to claims 1, 7, 13, and 19, Chapman discloses in Fig. 3, an access point router, which includes interfaces 302 and 304 for receiving data packets (having an associated guaranteed percentage of a transmission bandwidth of an egress line card). Chapman discloses in Fig. 1 that data packets are classified as either class 1 (C1) or class 2 (C2). Further, Chapman discloses in Fig. 4 that minimum and maximum bandwidth allocated to the class of traffic (each

Art Unit: 2667

class of service having an associated guaranteed portion of the associated guaranteed percentage of the transmission bandwidth) as received by the access point router (receiving data segments of at least one class of service at each of a plurality of ingress line cards, each class of service having a guaranteed percentage of transmission bandwidth). Chapman discloses (col. 9, lines 28-64) that based on the comparison between the accounting value and the bandwidth settings, a priority setting is established for the queue associated with the logical pathway between ports A and K, either HI or LO (marking a portion of the data segments of each class of service based on the guaranteed percentage of bandwidth of the class of service). If the accounting result is less than its minimum bandwidth, in this example 3Mb/s, the queue priority will be HI (if data transmitted from a class of service is less than the guaranteed percentage of transmission bandwidth of the class of service, all the data segments of the class are marked). Further, since class 2 traffic has reserved bandwidth with overflow and because a C2 queue which accounts for an output rate of traffic equal to the minimum bandwidth allocated can continue competing for spare bandwidth with other C2 queues until reaches its constraining maximum. When competing for spare bandwidth, a queue will have a LO priority setting (if data transmitted from a class of service exceeds the guaranteed percentage of transmission bandwidth of the class of service, the number of data segments marked corresponds to the guaranteed percentage of transmission bandwidth of the class of service). Once the queue's priority setting has been established, its outgoing packets are tagged to reflect the queue's priority status, through the state of a single bit in the packet header. If the bit is set, the data packet is being sent with HI priority; if the bit is cleared, the data packet is being sent with LO priority. Alternatively, the priority could be set through a multi-bit code point added outside of the original packet as an extra tag, together with

Art Unit: 2667

the ring source and destination information. The controller 308 will schedule data packet transmission for the various queues so as to move traffic from Hi priority requests before traffic from LO priority requests (preferentially transmitting the marked data segments from each class of service).

With respect to claims 2, 8, 14, and 20, Chapman discloses (col. 10, lines 25-28) that the controller 308 uses a round-robin scheduling policy to schedule packet release permissions for LO request traffic queues, as this ensures equal competition between all of these queues for any available spare bandwidth. Herein, since LO is different from HI, it is also considered as unmarked by examiner (transmitting unmarked data segments from each class of service equally).

With respect to claims 4, 10, 16, and 22, Chapman discloses in Fig. 7, a diagram showing the format of an IP data packet (wherein the data segments are data types selected from the group consisting of frame relay packet, voice transmission data, IP packet, or circuit emulation service packet).

With respect to claims 6 and 18, Chapman discloses (col. 9, lines 62-64) that the controller 308 will schedule data packet transmission for the various queues so as to move traffic from Hi priority requests before traffic from LO priority requests (preferentially transmitting the marked data segments includes guaranteeing the marked data segments are transmitted prior to transmitting the unmarked segments).

Art Unit: 2667

With respect to claims 11, 17, and 23, Chapman discloses (col. 9, lines 53-55) that once the queue's priority setting has been established, its outgoing packets are tagged to reflect the queue's priority status, through the state of a single bit in the packet header (wherein marking includes implementing a must-serve bit on the cell).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 3, 5, 9, 12, 15, 21, and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chapman et al (US Patent No. 6,304,552 B1).

With respect to claims 3, 9, 15, and 21, Chapman discloses (see Abstract) a method of supporting priorities in a switch. Chapman does not disclose wherein the data segments are ATM cells. However, ATM cells having different quality of service are well known in the art. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to implement the teachings of Chapman in ATM cells of ATM networks, therefore, bandwidth can be allocated efficiently among different prioritized traffic.

With respect to claim 5, Chapman discloses (col. 9, lines 53-55) that once the queue's priority setting has been established, its outgoing packets are tagged to reflect the queue's

priority status, through the state of a single bit in the packet header (wherein marking includes implementing a must-serve bit on the cell).

With respect to claims 12 and 24, Chapman discloses (col. 9, lines 62-64) that the controller 308 will schedule data packet transmission for the various queues so as to move traffic from Hi priority requests before traffic from LO priority requests (preferentially transmitting the marked data segments includes guaranteeing the marked data segments are transmitted prior to transmitting the unmarked segments).

Response to Arguments

6. Applicant's arguments filed February 03, 2005 have been fully considered but they are not persuasive.

Applicant states in page 9 that the drawings were objected. However, examiner does not see any information regarding the submitted formal drawings.

Applicant further lists in pages 9-11, the teachings of Chapman (US Patent No. 6,304,552). However, applicant did not indicate or argue anything regarding teachings of Chapman and the claimed invention.

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after

Art Unit: 2667


the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anh-Vu H. Ly whose telephone number is 571-272-3175. The examiner can normally be reached on Monday-Friday 7:00am - 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chi Pham can be reached on 571-272-3179. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

avl


CHI PHAM
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600 5/27/05